

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO. 1342 OF 1988

Ashwa Ghosh Co-operative Housing Society.
Petitioner.

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Vs.

Municipal Corporation for Greater Mumbai,

...Respondent.

....

Mr. M.R. Phal with Ms.Nunita Sonawane for the Petitioner.

Mrs. A.R. Joshi for the Respondent.

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CORAM : DR.D.Y.CHANDRACHUD, J.

October 29, 2004.

P.C.:

The relief which has been prayed in these proceedings under Article 226 of the Constitution is for a direction to the Respondent to grant permission to the Petitioner to occupy the building in question constructed on C. T. S. Nos.784 and 785 of village Kanjur, Plot Nos.70 and 71 of Datar Colony, Bhandup, Mumbai-400 078. The contention of the Petitioner is that all the relevant conditions of the I. O. D. have been duly fulfilled. In a matter such as the present, it would, in the very nature of the things, not be appropriate for the Court to investigate into the question as to whether each of the individual conditions contained

in the IOD have been duly complied with. By its letter dated 1st March 1985, the Municipal Corporation had called upon the licensed surveyor of the Petitioner to fulfill certain IOD conditions including condition (f) which reads thus:

“f) Transferring the set back land of which F. S. I. advantage has been taken, in the name of the Municipal Corporation in City Survey Record and no compensation paid certificate from Ward Officer.”

2. The Corporation must decide first as to whether the Petitioner has complied with all the conditions requisite for the grant of occupation certificate. This petition is disposed of by directing the Municipal Commissioner to nominate the concerned Executive Engineer (Building Proposals), who will decide as to whether the Petitioner has complied with all the conditions requisite for the grant of occupation certificate. It would be open to the Petitioner to submit a representation to the concerned Executive Engineer (Building Proposals) of the Municipal Corporation within a period of one month from today. The Executive Engineer (Building Proposals) shall pass fresh orders thereafter, after giving the Petitioner an opportunity of being heard

within a period of two months.

3. The writ petition is accordingly disposed of in the above terms. No order as to costs.

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